



House of Representatives

General Assembly

File No. 159

February Session, 2002

Substitute House Bill No. 5484

House of Representatives, March 26, 2002

The Committee on Environment reported through REP. STRATTON of the 17th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TREES ON PUBLIC PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 13a-140 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2002*):

4 (a) The commissioner may cut, remove or prune any tree, shrub or
5 other vegetation situated wholly or partially within the limits of any
6 state highway so far as is reasonably necessary for safe and convenient
7 travel thereon, provided the chief elected official of the municipality in
8 which any such tree with a diameter of six inches or greater to be
9 trimmed, cut or removed has first been notified in writing of the
10 location and description of such tree to be trimmed, cut or removed
11 and such official had the opportunity to submit to the commissioner
12 any information concerning the proposed trimming, cutting or
13 removal of such tree. No person, firm or corporation, and no officer,
14 agent or employee of any municipal or other corporation, shall cut,

15 remove or prune any tree, shrub or vegetation situated partially or
16 wholly within the limits of any such highway without first obtaining
17 from said commissioner a written permit therefor, provided however,
18 that nothing contained in this subsection shall limit the rights of public
19 service companies, as defined in section 16-1, to cut and trim trees and
20 branches and otherwise protect their lines, wires, conduits, cables and
21 other equipment from encroaching vegetation. No such permit shall be
22 issued by the commissioner unless the chief elected official of the
23 municipality in which any tree [with a diameter greater than eighteen
24 inches] to be trimmed, cut or removed is situated is notified in writing.
25 The notice shall include the location and a description of such tree to
26 be trimmed, cut or removed. The chief elected official of such
27 municipality shall have opportunity to submit to the commissioner
28 any information concerning the proposed trimming, cutting or
29 removal of such tree. Such chief elected official may appeal to the
30 commissioner any decision concerning an application for trimming,
31 cutting or removing of trees upon which said chief elected official
32 submitted information. No such permit for the removal of any such
33 tree, shrub or vegetation shall be refused if such removal is necessary
34 for that use of such adjoining land [which] that is of the highest
35 pecuniary value. If such permit is refused on any state highway
36 right-of-way, where the state does not own the right-of-way in fee, the
37 owner of such tree, shrub or vegetation may, within thirty days
38 thereafter, request said commissioner in writing to purchase or
39 condemn an easement for the purpose of maintaining such tree, shrub
40 or vegetation and, if said commissioner does not purchase the same, he
41 shall condemn it, in the manner provided for the condemnation of
42 land for the construction, alteration, extension or widening of state
43 highways. Any payment so made shall be from funds appropriated to
44 the Department of Transportation. Said commissioner may plant, set
45 out and care for trees, shrubs or vegetation within the limits of such
46 highways and, by agreement with the owner of land adjoining such
47 highways, upon such adjoining land. Upon request in writing within
48 thirty days of planting of trees, shrubs or vegetation to delimit
49 boundaries of a highway by an adjoining owner not agreeing thereto,

50 said commissioner shall purchase or condemn an easement for the
51 purpose of maintaining such tree, shrub or vegetation in the manner
52 provided in this subsection. When the removal of such tree, shrub or
53 vegetation is necessary for that use of such adjoining land which is of
54 the highest pecuniary value, said commissioner shall remove the same
55 upon payment to him of all sums paid for said planting and for any
56 such easement with interest at the rate of six per cent per annum. Any
57 person, firm or corporation cutting, removing, damaging or pruning
58 any tree, shrub or vegetation in violation of the provisions of this
59 subsection, whether it was planted by the commissioner or not,
60 without a permit from said commissioner, shall be fined not more than
61 one thousand dollars for each such violation and shall be liable civilly
62 for any damage in an action brought by said commissioner.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$	FY 04 \$
Transportation Fund - Cost	Department of Transportation	424,000 to 667,000	565,000 to 890,000

Note: TF=Transportation Fund

Municipal Impact:

Effect	Municipalities	FY 03 \$	FY 04 \$
Cost	All Municipalities	Minimal	Minimal

Explanation

This bill will result in costs to the Department of Transportation (DOT) that could range from \$424,000 to \$667,000 in FY 03 and from \$565,000 to \$890,000 in subsequent fiscal years. It will also result in additional costs to municipalities that are anticipated to be minimal. The bill requires the commissioner of DOT to notify the chief elected official of the municipality in which any tree with a diameter of six inches or greater is to be trimmed, cut, or removed. The tree cannot be cut until the official has had the opportunity to submit to the commissioner any feedback concerning the proposed action. In addition, the bill reduces, from eighteen inches to six inches, the diameter of a tree on state highway land that a third party must obtain the commissioner's permission (a permit) to trim, cut, or remove and provide notification to the chief elected official of the municipality. The chief elected official may appeal to the commissioner any decision concerning the permit application.

The department trims and or removes hundreds of thousands of trees each year many of which are six inches or greater in diameter. It spends almost \$6,000,000 each year on these activities, which are

necessary to maintain the safety of driving on the state's highways and roads by 1) maintaining sightlines, 2) improving drainage, and 3) keeping the roads open to allow sun and air movement to prevent icing conditions during winter months.

The department would require additional personnel to draft letters and prepare plans for submittal to the chief elected officials of the affected municipalities. Field meetings will have to be conducted for all the tree maintenance operations conducted by the department as they all involve trees six inches or greater in diameter. The department estimates that each of their four districts will need an additional employee to handle the meetings and prepare responses. The average cost will be \$60,000 per employee including fringe benefits¹ and overhead, for a total annual cost of \$240,000.

In addition, the chief elected officials are expected to hold public meetings on many of the proposals to trim, cut and remove trees. The department estimates that public hearings for both DOT and permit operations will require two employees for after-hours meetings which will have to be held in the local municipality at a cost of about \$500 per hearing. This includes time and a half overtime plus travel costs. While the actual number of hearings is not known at this time, the department estimates that there will be 300 hearings for permit work and at least 1,000 for DOT work. This would be an additional cost of \$650,000 per year. Even if only one employee is sent to each meeting, the annual cost would be \$325,000. Municipalities would incur minimal costs from 1) responding to the commissioner of DOT's notifications, and 2) holding public hearings.

The bill's requirements could also delay work that is directly related to the safety of motorists. The potential liability costs cannot be determined, but they could be significant.

¹ Fringe benefit costs are not included in the agency's operating budget. They are appropriated to various accounts under the Miscellaneous Accounts Administered by the Comptroller.

OLR Bill Analysis

sHB 5484

AN ACT CONCERNING TREES ON PUBLIC PROPERTY**SUMMARY:**

This bill requires the transportation commissioner to notify a municipality's chief elected official (CEO) before trimming, cutting, or removing any tree in the town six inches or more in diameter on a state highway right-of-way in that municipality. The notice must be in writing, describe the tree, and give its location. The bill allows the CEO to submit information on the proposed action to the commissioner.

Current law requires anyone wishing to prune, cut, or remove a tree on a state highway right-of-way to apply to the commissioner for a permit. Also, by law, the commissioner must provide a municipality's CEO with written notice of any application to cut, prune, or remove a tree 18 inches or more in diameter on a state highway right-of-way in that municipality. The notice must include the location and description of the tree. The bill (1) removes the 18-inch specification, thus requiring notification about any tree for which someone applies for a permit; (2) specifies that the notice applies to trimming as well as cutting or removal; and (3) allows the CEO to submit information about the proposed action and to appeal to the commissioner any decision he makes about a permit. The bill does not specify an appeals procedure.

The law specifies that the commissioner cannot refuse a permit application for removing any tree, shrub, or vegetation when removal is necessary for using the adjoining land at its greatest economic value. This provision appears to limit the CEO's ability to successfully appeal the commissioner's decision to approve a permit in such cases.

EFFECTIVE DATE: October 1, 2002

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 23 Nay 4